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Robert O. Blinn  
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**JUL 21 2004**

**OFFICE OF PETITIONS**

In re Application of  
Stephen Patrick Finch  
Application No. 10/757,246  
Filed: January 14, 2004  
Attorney Docket Number: 3018W  
Title: Method For Extracting Gluten

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: **DECISION REFUSING STATUS**  
: **UNDER 37 C.F.R. §1.47(b)**  
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This is in response to the petition under 37 C.F.R. §1.47(b), filed June 8, 2004.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 14, 2004, without an executed oath or declaration, and naming Stephen Patrick Finch as sole inventor. Accordingly, on April 20, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

As to item (2), Although a declaration which contains the non-signing inventor's signature block and was executed by David Vander Griend, President of ICM was presented with the petition, the title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b). It is not sufficient to reference an appendix.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition  
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Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.

Charles R. Herz

Charlema R. Grant  
Petitions Attorney  
Office of Petitions